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FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

APR 7 2014

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

Plaintiff(s)

James William Gentry

v.

Defendant(s)

Menard, Inc.

Case No.

14CV2147

Age Discrimination
Disability Discrimination

Judge Leinenweber
Magistrate Judge
Mason

Attached is Right to Sue letter
and original copy of Complaint,

James W. Gentry
4/7/14

MAIL ROOM ONLY

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: James W. Gertie
2391 Forest Ave
Rolling Meadows, IL 60009

From: Chicago District Office
500 West Madison St.
Suite 2000
Chicago, IL 60661



On behalf of person(s) aggrieved whose identity is
being kept confidential under CFR § 1601.106

EEOC Charge No.

EEOC File Reference No.

Telephone No.

William Hubbard

846-2013-11397

Investigator

(312) 869-8091

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statute.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



The EEOC issues the following determination. Based upon its investigation, the EEOC is unable to conclude that the discrimination alleged constitutes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC is not authorized to take any action or order any remedy, including monetary damages, for the alleged discrimination.



Charge timely filed.

NOTICE OF SUIT RIGHTS

(See the Additional Information paragraph of this notice.)

Under the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act, this will be the only notice of your right to sue that you will receive. You may file a suit against the respondent(s) under federal law based on this charge or federal or state law. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice or your right to sue based on this charge will be lost. If the time limit for filing suit based on a claim under state law may or may not be different.

Back Pay: Back pay is the amount of money that you would have received if you had not been discriminated against. This includes back pay due for any violations that occurred since the date of your complaint and any other benefits that you may not be entitled to.

John P. Rowe

District Director

Date: 4/7/14

William A. Byrd

Assistant to the District Director

Date: 4/7/14

Signature of the District Director

Signature of the Assistant to the District Director

14 CV 2147

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
INTAKE QUESTIONNAIRE

12/24/13

Please immediately complete this entire form and return it to the U.S. Equal Employment Opportunity Commission ("EEOC"). **REMEMBER.** a charge of employment discrimination must be filed within the time limits imposed by law, within 180 days or in some places within 300 days of the alleged discrimination. When we receive this form, we will review it to determine EEOC coverage. **Answer all questions completely, and attach additional pages if needed to complete your responses. If you do not know the answer to a question, answer by stating "not known."** If a question is not applicable, write "N/A." (PLEASE PRINT)

1. Personal Information

Last Name: Gertie First Name: James MI: W.
Street or Mailing Address: 2391 Forest Ave. Apt. or Unit #: _____
City: Rolling Meadows County: Cook State: IL Zip: 60008
Phone Numbers: Home: () None Work: (847) 418-4050
Cell: 847 845-4295 Email Address: JamesGertie03@gmail.com
Date of Birth: 9-28-63 Sex: ☒ Male ☐ Female Do You Have a Disability? ☒ Yes ☐ No

Please answer each of the next three questions. i. Are you Hispanic or Latino? ☐ Yes ☒ No

ii. What is your Race? Please choose all that apply. ☐ American Indian or Alaskan Native ☐ Asian ☒ White
☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander

iii. What is your National Origin (country of origin or ancestry)? Germany

Please Provide The Name Of A Person We Can Contact If We Are Unable To Reach You:

Name: Jeanne Bianchi Relationship: Sister
Address: 101 Stevenson City: Al. Park State: IL Zip Code: 60056
Home Phone: 847 635-9027 Other Phone: 847 991-1035

2. I believe that I was discriminated against by the following organization(s): (Check those that apply)

☒ Employer ☐ Union ☐ Employment Agency ☐ Other (Please Specify) _____

Organization Contact Information (If the organization is an employer, provide the address where you actually worked. If you work from home, check here ☐ and provide the address of the office to which you reported.) If more than one employer is involved, attach additional sheets.

Organization Name: Menard, Inc.
Address: 7435 Barrington Rd. County: Cook
City: Hanover Park State: IL Zip: 60104 Phone: (630) 372-3471
Type of Business: Home Improvement Job Location if different from Org. Address: 5101 Menard Dr.
Human Resources Director or Owner Name: Lisa Winkler Phone: (630) 372-3480

Number of Employees in the Organization at All Locations: Please Check (✓) One

☐ Fewer Than 15 ☐ 15 - 100 ☐ 101 - 200 ☐ 201 - 500 ☒ More than 500

3. Your Employment Data (Complete as many items as you are able.) Are you a federal employee? ☐ Yes ☒ No

Date Hired: 06-06-2000 Job Title At Hire: Manager Trainee
Pay Rate When Hired: \$11.50/hour Last or Current Pay Rate: \$13.80/hour
Job Title at Time of Alleged Discrimination: Electrical Dept. Manager Date Quit/Discharged: 9-12-2012
Name and Title of Immediate Supervisor: Allen Silberman - General Manager
If Job Applicant, Date You Applied for Job 6/5/2000 Job Title Applied For Manager Trainee

4. What is the reason (basis) for your claim of employment discrimination?

FOR EXAMPLE, if you feel that you were treated worse than someone else because of race, you should check the box next to Race. If you feel you were treated worse for several reasons, such as your sex, religion and national origin, you should check all that apply. If you complained about discrimination, participated in someone else's complaint, or filed a charge of discrimination, and a negative action was threatened or taken, you should check the box next to Retaliation.

☐ Race ☐ Sex ☒ Age ☒ Disability ☐ National Origin ☐ Religion ☐ Retaliation ☐ Pregnancy ☐ Color (typically a difference in skin shade within the same race) ☐ Genetic Information; circle which type(s) of genetic information is involved:
 i. genetic testing ii. family medical history iii. genetic services (genetic services means counseling, education or testing)

If you checked color, religion or national origin, please specify: _____

If you checked genetic information, how did the employer obtain the genetic information? _____

Other reason (basis) for discrimination (Explain): Disability due to [documented] depression

5. What happened to you that you believe was discriminatory? Include the date(s) of harm, the action(s), and the name(s) and title(s) of the person(s) who you believe discriminated against you. Please attach additional pages if needed.

(Example: 10/02/06 - Discharged by Mr. John Soto, Production Supervisor)

A. Date: 9-12-12 Action: I was fired from Menard, Inc., while under Federal Medical Leave Act protection.

Name and Title of Person(s) Responsible: Mr. Allen Silbernagel, General Manager

B. Date: 8-2-12 Action: My private medical information was verbally told to non-management personnel by Mr. Gotsman

Name and Title of Person(s) Responsible: Matthew Gotsman, Assistant General Manager

6. Why do you believe these actions were discriminatory? Please attach additional pages if needed.

I was fired and replaced with a person who is about 1/2 my age, unqualified and who was insubordinate to me.

7. What reason(s) were given to you for the acts you consider discriminatory? By whom? His or Her Job Title?
Mr. Silbernagel stated that I was fired due to being insubordinate during a two hour "verbally abuse" counseling session.

8. Describe who was in the same or similar situation as you and how they were treated. For example, who else applied for the same job you did, who else had the same attendance record, or who else had the same performance? Provide the race, sex, age, national origin, religion, or disability of these individuals, if known, and if it relates to your claim of discrimination. For example, if your complaint alleges race discrimination, provide the race of each person; if it alleges sex discrimination, provide the sex of each person; and so on. Use additional sheets if needed.

Of the persons in the same or similar situation as you, who was treated better than you?

Full Name	Race	Sex	Age	National Origin	Religion or Disability	Job Title	Description of Treatment
A. Brian Strazdecki	white	Male	App. 27 yrs old			- Asst. Dept Manager, Electrical Dept.	Mr. Strazdecki was my subordinate and yet was shown favoritism by Mr. Matt Gotsman regarding his duties + responsibilities in his position as my Assistant. He never completed tasks that were assigned to him.

Ine. "Additional Training and Communication Forms, per Menard, Inc. Company Policies, to correct his insubordinate behaviors, These behaviors

Lasted over a Approx. two Month period of time, concluding at my Dismissal on 9/12/12. While I was on Limited work and under F.M.L.A. protection due to work related Stress Documented by two different Medical Doctors on August 2nd. and August 7th 2012, respectively,

Of the persons in the same or similar situation as you, who was treated worse than you?

Full Name	Race, Sex, Age, National Origin, Religion or Disability	Job Title	Description of Treatment
A. <u>None</u>			

B. _____

Of the persons in the same or similar situation as you, who was treated the same as you?

Full Name	Race, Sex, Age, National Origin, Religion or Disability	Job Title	Description of Treatment
A. <u>None</u>			

B. _____

Answer questions 9-12 only if you are claiming discrimination based on disability. If not, skip to question 13. Please tell us if you have more than one disability. Please add additional pages if needed.

9. Please check all that apply:

- ☒ Yes, I have a disability
☐ I do not have a disability now but I did have one
☐ No disability but the organization treats me as if I am disabled

10. What is the disability that you believe is the reason for the adverse action taken against you? Does this disability prevent or limit you from doing anything? (e.g., lifting, sleeping, breathing, walking, caring for yourself, working, etc.).

Depression and Anxiety
Limits my sleep, work shifts to 8-9 hours

11. Do you use medications, medical equipment or anything else to lessen or eliminate the symptoms of your disability?

☒ Yes ☐ No

If "Yes," what medication, medical equipment or other assistance do you use?

Zolast, Zanax

12. Did you ask your employer for any changes or assistance to do your job because of your disability?

☒ Yes ☐ No
If "Yes," when did you ask? 8/7/12 How did you ask (verbally or in writing)? In writing via

Who did you ask? (Provide full name and job title of person)

Mr. Allen Silbernagel, General Manager

Describe the changes or assistance that you asked for

Due to the stress from my work, my Doctor requested a 40 hour Maximum work week with 8 hours per shift.

How did your employer respond to your request?

I was put on a 8 hour Max, shift per day and 40 hours per week under the title of "Intermittent FMLIA."

13. Are there any witnesses to the alleged discriminatory incidents? If yes, please identify them below and tell us what they will say. (Please attach additional pages if needed to complete your response)

Full Name Job Title Address & Phone Number What do you believe this person will tell us?

A. Richard Maternaowski, 630 624-0389, 6901 Center St
Laguardia, the will verify the Medical Information Violation
B. Shirley Mayer, 224-388-1710,
She will verify the insubordination by
Dr. David Kitz, 847-742-7872, INSUBORDINATION

14. Have you filed a charge previously on this matter with the EEOC or another agency? ☒ Yes ☐ No

15. If you filed a complaint with another agency, provide the name of agency and the date of filing: IL Dept of Labor, December 5th, 2012

16. Have you sought help about this situation from a union, an attorney, or any other source? ☒ Yes ☐ No

Provide name of organization, name of person you spoke with and date of contact. Results, if any?

Shawn Jones, 708 Church St, Evanston, IL, 60202, (847) 475-1700, August 27, 2012

Please check one of the boxes below to tell us what you would like us to do with the information you are providing on this questionnaire. If you would like to file a charge of job discrimination, you must do so either within 180 days from the day you knew about the discrimination, or within 300 days from the day you knew about the discrimination if the employer is located in a place where a state or local government agency enforces laws similar to the EEOC's laws. If you do not file a charge of discrimination within the time limits, you will lose your rights. If you would like more information before filing a charge or you have concerns about EEOC's notifying the employer, union, or employment agency about your charge, you may wish to check Box 1. If you want to file a charge, you should check Box 2.

BOX 1 ☐ I want to talk to an EEOC employee before deciding whether to file a charge. I understand that by checking this box, I have not filed a charge with the EEOC. I also understand that I could lose my rights if I do not file a charge in time.

BOX 2 ☒ I want to file a charge of discrimination, and I authorize the EEOC to look into the discrimination I described above. I understand that the EEOC must give the employer, union, or employment agency that I accuse of discrimination information about the charge, including my name. I also understand that the EEOC can only accept charges of job discrimination based on race, color, religion, sex, national origin, disability, age, genetic information, or retaliation for opposing discrimination.

[Signature]
Signature

12/27/12
Today's Date

PRIVACY ACT STATEMENT: This form is covered by the Privacy Act of 1974: Public Law 93-579. Authority for requesting personal data and the uses thereof are:

- 1) FORM NUMBER/TITLE/DATE. EEOC Intake Questionnaire (9/20/08).
- 2) AUTHORITY. 42 U.S.C. § 2000e-5(b), 29 U.S.C. § 211, 29 U.S.C. § 626, 42 U.S.C. 12117(a)
- 3) PRINCIPAL PURPOSE. The purpose of this questionnaire is to solicit information about claims of employment discrimination, determine whether the EEOC has jurisdiction over those claims, and provide charge filing counseling, as appropriate. Consistent with 29 CFR 1601.12(b) and 29 CFR 1626.8(c), this questionnaire may serve as a charge if it meets the elements of a charge.
- 4) ROUTINE USES. EEOC may disclose information from this form to other state, local and federal agencies as appropriate or necessary to carry out the Commission's functions, or if EEOC becomes aware of a civil or criminal law violation. EEOC may also disclose information to respondents in litigation, to congressional offices in response to inquiries from parties to the charge, to disciplinary committees investigating complaints against attorneys representing the parties to the charge, or to federal agencies inquiring about hiring or security clearance matters.
- 5) WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION. Providing this information is voluntary but the failure to do so may hamper the Commission's investigation of a charge. It is not mandatory that this form be used to provide the requested information.